

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed September 30, 2004. Claim 23 has been added herein. Support for newly added claim 23 can be found, for example, in the specification on page 8, lines 5-17. No new matter has been entered. Upon entry of the enclosed claim amendment, claims 1-2, 4-7, 9-15, and 17-23 remain pending in the present application.

In the Office Action, the preliminary rejection of claims 1-2, 4-7, 9-15, and 17-22 under 35 U.S.C. § 103 by U.S. Patent No. 5,278,898 to Cambray et al. in view of U.S. patent No. 6,330,326 to Friedes et al. and U.S. Patent No. 6,173,052 to Brady has been withdrawn. The Office Action asserts a new preliminary rejection of pending claims 1-2, 4-7, 9-15, and 17-22 based on obviousness under 35 U.S.C. § 103 using additional references. The Applicants traverse all of the rejections of the Office Action. Applicants appreciate the Examiner's review of the above-identified patent application and respectfully request reconsideration and allowance in view of the above amendments and following remarks.

I. Response to Claim Rejections Based on Obviousness

In the Office Action, claims 1-2, 4-7, 9-15, and 17-22 have been preliminarily rejected as obvious under 35 U.S.C. § 103. Specifically claims 1-2, 4-7, 9-15, and 17-22 have been rejected under 35 U.S.C. § 103 by U.S. Patent No. 5,278,898 to Cambray et al. (hereinafter, "Cambray") in view of U.S. patent No. 6,330,326 to Whitt (hereinafter, "Whitt") and U.S. Patent No. 6,173,052 to Brady (hereinafter, "Brady").

A. Claim 1

Applicants' claim 1 recites,

...retrieving information from said identified customer database records that is **relevant to call prioritization;**

creating a call record for each connected call, each call record including said caller identifying information and said retrieved call prioritizing information;

inserting each created call record into a hold queue;

based on at least said retrieved call prioritizing information, prioritizing said plurality of calls in said hold queue..

(Emphasis Added)

Applicants respectfully submit that the cited references of Cambray in view of Whitt and further in view of Brady fail to

disclose, teach, or suggest the above emphasized elements of preliminarily rejected claim 1 for at least the reasons that follow. Applicants remind the Examiner that Applicants are not claiming simply the concept of retrieving information pertinent to previous transactions with a customer, but rather the use of this information for prioritizing the connected call of the customer in a hold queue.

Cambray does not disclose or suggest using caller identifying information to retrieve information regarding previous transactions with that specific client from a database. Nor does Cambray disclose or suggest utilizing this information to establish call prioritization for the call in a hold queue. The Examiner acknowledges in the last paragraph on page 2 of the Office Action that Cambray does not disclose retrieving information from said identified customer database records that is relevant to the call prioritization. The Examiner does not disclose where in any of the references the aspect of utilizing the retrieved information to establish call prioritization for the call in a hold queue is disclosed.

Whitt does not cure this deficiency. Whitt discloses using a customer identifier to recall previous calling history of the

current customer from a database and using the calling history to estimate the probability distribution function (PDF) for the waiting time for the next successive callers. Whitt does not teach or suggest using the calling history to prioritize the current customer call.

The combination of Cambray, Whitt, and Brady does not cure this deficiency. Even if one were to combine the references, which Applicants do not concede, the combined teachings would not teach or suggest retrieving information from said identified customer database records that is relevant to prioritization of the call as claimed in Applicants' claim 1. The combined teaching would result in prioritizing the calls in the hold queue based on the "age" of the call, i.e., the amount of time that the call has been "on hold". The "age" of the call would then be used generically to prioritize the call, e.g., using a First In First Out (FIFO) or Last In First Out (LIFO) type of hold queue. See Cambray, column 3, lines 15-16. The combined teaching may provide a PDF function of the wait time for successive calls based on the current caller's history. The service center would be able to staff additional operators to receive calls from the hold queue. However, the priority of the current call would not change among

the plurality of other calls in the hold queue. The "age" of the call would still not be dynamically generated during the call and is not derived from, nor could be modified to be derived from, a previous transaction with the customer. Neither reference teaches nor suggests using the caller's history to change the priority of the current call among the other callers in the holding queue.

Applicants respectfully submit that the combination of Cambray and Whitt as suggested by the Examiner in the Office Action is an improper legal conclusion of obviousness. The Examiner is using hindsight based on the Applicants' disclosure to combine portions of Cambray with portions of Whitt. When read as a whole, Whitt clearly discloses a solution for providing a better estimation of current hold times based on previous call histories.

To pick and choose from *all* the elements and steps discussed in Whitt the single act of retrieving from a database customer information without regard to estimating hold times of successive calls, as suggested by the Examiner, and then combining this *specific* aspect of Whitt with Cambray would require one to read Whitt and ignore the fact that Whitt discusses retrieving information about customers ONLY in respect to estimating hold times for calls of subsequent callers, not PRESENT callers.

The Examiner is using hindsight based on Applicants' disclosure to suggest that the hold times could be used to prioritize the current customer call. Applicants respectfully submit that the Examiner's conclusion of obviousness is an improper legal conclusion. Rather, a proper conclusion of obviousness requires that the elements be disclosed and there be a motivation, separate and independent from the Applicants' disclosure, for the alleged combination of all elements.

B. Claims 2, 4-6, and 20

The Applicants respectfully submit that since claims 4-6 and 20 depend on independent claim 1, claims 4-6 and 20 contain all limitations of independent claim 1. Since independent claim 1 should be allowed, as argued above, pending dependent claims 4-6 and 20 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

C. Claim 7

Applicants' claim 7 recites,

...a customer database including a plurality of
database records, each database record including caller
identifying information and **information relevant to call**

prioritization based on a previous interaction with said customer;...

a hold queue prioritizer responsive to said caller identifying information from each of said plurality of calls connected to said automated telephone system, for retrieving at least a portion of said call prioritizing information stored in each said database record corresponding to each connected call, **prioritizing said plurality of calls in said hold queue based on at least said retrieved call prioritizing information**, and for selecting a connected call to direct from said plurality of prioritized calls in said hold queue.

(Emphasis Added)

Applicants respectfully submit that the cited references Cambray in view of Whitt in further view of Brady fail to disclose, teach, or suggest the above emphasized elements of preliminarily rejected claim 7 for at least the reasons that follow. As previously discussed in greater detail in Section IA regarding claim 1, neither Cambray, Whitt, Brady, or a combination of the references disclose, teach, or suggest the aspect of utilizing the retrieved information of the current call to establish call prioritization for the current call in a hold queue. In addition, the Examiner is using hindsight based on Applicants' disclosure to combine portions of the references without viewing the references as a whole.

Applicants respectfully submit that none of the references

provided by the Examiner disclose, teach, or suggest a database record with information relevant to the call prioritization. In addition, the references do not disclose, teach, or suggest prioritizing the calls in said hold queue based on the prioritizing information of the call as claimed in Applicants' claim 7.

D. Claims 9-14 and 21

The Applicants respectfully submit that since claims 9-14 and 21 depend on independent claim 7, claims 9-14 and 21 contain all limitations of independent claim 7. Since independent claim 7 should be allowed, as argued above, pending dependent claims 9-14 and 21 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

E. Claim 15

Applicants' claim 15 recites,

...a customer database, including customer database records including caller identifying information and **call prioritizing information based on a previous interaction with said customer;**

at least one hold queue; and

a hold queue prioritizer, coupled to said call receiver/director, said hold queue prioritizer

including:

a means for obtaining caller identifying information from each of said plurality of connected calls;

a means responsive to said obtained caller identifying information, for searching said customer database to identifying customer database records corresponding to said obtained caller identifying information for each of said plurality of connected calls, and retrieving said call prioritizing information from each of said identified customer database records;

a means for creating a call record for each of said plurality of connected calls, each call record including said caller identifying information and said call prioritizing information;

a means for prioritizing said plurality of calls in said hold queue based on at least said retrieved call prioritizing information..

(Emphasis Added)

Applicants respectfully submit that the cited references Cambray in view of Whitt in further view of Brady fail to disclose, teach, or suggest the above emphasized elements of preliminarily rejected claim 15 for at least the reasons that follow. As previously discussed in greater detail in Section IA regarding claim 1, neither Cambray, Whitt, Brady, or a combination of the references disclose, teach, or suggest the aspect of utilizing the retrieved information of the current call to establish call prioritization for the current call in a hold

queue. In addition, the Examiner is using hindsight based on Applicants' disclosure to combine portions of the references without viewing the references as a whole.

Applicants respectfully submit that none of the references provided by the Examiner disclose, teach, or suggest call prioritizing information based on a previous interaction with said customer. In addition, the references do not disclose, teach, or suggest a means for prioritizing said plurality of calls in said hold queue based on at least said retrieved prioritizing information of the call as claimed in Applicants' claim 15.

F. Claims 17-19 and 22

The Applicants respectfully submit that since claims 17-19 and 22 depend on independent claim 15, claims 17-19 and 22 contain all limitations of independent claim 15. Since independent claim 15 should be allowed, as argued above, pending dependent claims 17-19 and 22 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

II. Newly Added Claim

Claim 23 has been added. The Applicants believe newly added

claim 23 is patentable over the cited references.

A. Claim 23

Applicants' claim 23 recites,

...retrieving information from said identified customer database records that is **relevant to call prioritization of the connected call associated with said identified customer;**

creating a call record for each connected call, each call record including said caller identifying information and **said retrieved call prioritizing information of the connected call associated with said identified customer;**

inserting each created call record into a hold queue; **based on at least said retrieved call prioritizing information of the connected call associated with said identified customer,** prioritizing said plurality of calls in said hold queue; and

directing a connected call from said plurality of prioritized calls in said hold queue to an available agent.

(Emphasis Added)

Applicants respectfully submit that the cited references Cambray in view of Whitt in further view of Brady fail to disclose, teach, or suggest the above emphasized elements of newly added claim 23 for at least the reasons that follow. As previously discussed in greater detail in Section IA regarding claim 1, neither Cambray, Whitt, Brady, or a combination of the references disclose, teach, or suggest a customer database record

that is relevant to call prioritization of the connected call associated with said identified customer.

Applicants respectfully submit that none of the references provided by the Examiner disclose, teach, or suggest a database record with information relevant to the call prioritization. In addition, the references do not disclose, teach, or suggest inserting each created call record into a hold queue based on at least said retrieved call prioritizing information of the connected call associated with said identified customer as claimed in Applicants' claim 23.

III. Prior Art Made of Record

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.


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CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, the Applicants respectfully submit that all objections and rejections have been traversed, rendered moot and/or accommodated, and that presently pending claims 1-2, 4-7, 9-15, and 17-23 are in condition for allowance. Favorable reconsideration and allowance of the present application and the presently pending claims are hereby courteously requested. The examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

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